

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LIBERTY MUTUAL INSURANCE CO.,

Plaintiff,

-against-

HORIZON COACH, INC., et al.,

Defendants.
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HURLEY, Senior District Judge:

On July 2, 2008, this Court granted Plaintiff's motion for an entry of default judgment against defendant Horizon Coach, Inc. ("Horizon") in the above-captioned case, and referred the matter to U.S. Magistrate Judge William D. Wall, pursuant to 28 U.S.C. § 636(b)(3), for a report and recommendation as to damages and attorney's fees. On July 15, 2009, Judge Wall issued a Report and Recommendation that Plaintiff be awarded a total of \$530,787.00 in damages plus interest and costs. On July 17, 2009, Horizon was served with a copy of the Report and Recommendation. Horizon has not filed any objections. Plaintiff filed a letter dated July 15, 2009 requesting that this Court reduce the damages award by \$110,000.00 to reflect monies paid by the other defendants to Plaintiff under the terms of the settlement agreement.

Federal Rule of Civil Procedure 72(b) provides that when a magistrate judge issues a report and recommendation on a matter "dispositive of a claim or defense of a party," the district court judge shall make a de novo determination of any portion of the

ORDER

07-CV-1477 (DRH) (WDW)

magistrate judge's disposition to which specific written objection has been made. Fed. R. of Civ. P. 72(b). Accordingly, the Court applies de novo review to those portions of the Report to which objections were raised. *See id.* The Court reviews those portions to which no objections have been filed for clear error. *See, e.g., Kenneth Jay Lane, Inc. v. Heavenly, Apparel Inc.*, No. 03 CV 2132, 2006 WL 728407, at *1 (S.D.N.Y. Mar. 21, 2006).

After reviewing the Report and Recommendation in accordance with the above-stated standard, the concurs in both its reasoning and result. Accordingly, this Court adopts the July 15, 2009 Report and Recommendation as follows: Plaintiff is hereby awarded \$420,787.00 in damages, prejudgment interest from May 19, 2005 at the statutory rate of 9%, post-judgment interest at the statutory rate prescribed by 28 U.S.C. § 1961(a), the \$350.00 filing fee, and \$750.00 in sanctions. As defendants John R. Tomassi and The Winfield Group, Inc. have been terminated, and the action has been stayed as to defendant Clemente M. D'Alessio, upon entry of judgment, the Clerk shall close this case.

SO ORDERED.

Dated: Central Islip, N.Y.
August 20, 2009

/s/
Denis R. Hurley,
United States District Judge